**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

**W.P.No.1917 of 2006**

**DATED: 01.02.2006**

**Between:**

Mohd.Khaisar, E.No.41598,

Driver (Rtd),

H.No.17.8.2/B/1, Chawni Nade Ali,

Yakhutpura, Hyd.

**… P**etitioner

**and**

The A.P.S.R.T.C, rep by its

Managing Director, Hyd.

2. The Depot Manager, APSRTC,

Hyderabad II Depot, Dilsukhnagar, Hyd. … Respondent.

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**ORDER:**

The petitioner was appointed as driver in A.P.S.R.T.C. on 30.6.1972. He was removed from service on disciplinary grounds, on 31.12.1984. Aggrieved thereby he raised an industrial dispute before the Additional Industrial Tribunal, Hyderabad, after exhausting the departmental remedies. The Industrial Tribunal passed an award dated 5.1.1988 directing reinstatement of the petitioner with continuity of service but denying the back wages. The petitioner ultimately was reinstated into service on 9.5.1988.

The petitioner was retired from service on 30.8.2004. He was extended all the retirement benefits, however, he was denied the gratuity from 1.1.1985 to 9.5.1988. The petitioner challenges the said action of the respondents.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents.

Basically, the petitioner has to workout his remedies before the authority under the Payment of Gratuity Act. However, the narrow controversy in the instant case is covered by the judgment of this Court in ***M.RAMA RAO vs ASSISTANT TRAFFIC MANAGER, A.P.S.R.T.C.*** wherein it was held that where an employee is removed and thereafter reinstated, with continuity of service, he is entitled to be paid gratuity for the period during which he was out of employment. In the instant case also, the petitioner was removed from service on 31.12.1984, but was reinstated on 9.5.1988 on the strength of an award passed by the Industrial Tribunal in I.D.No.304 of 1986. The award is clear in its purport and the petitioner was granted the benefit of continuity of service. One of the important areas where the benefit of continuity of service operates is, the entitlement of an employee, to be paid gratuity for that period.

For the foregoing reasons, the writ petition is allowed and the respondents are directed to pay the gratuity for the period between 1.1.1985 to 8.5.1988 duly calculating it on the basis of admissible rates, within a period of three months from the date of this order. It is made clear that the amount does not carry interest.

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**01.02.2006.**

**Note:**

**Issue C.C.in three days.**

**B/o.**

**Mdaa.**